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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

October 13, 2000

VIA FEDERAL EXPRESS

Mr. Thomas Sugrue, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Room 3-C207
Washington, DC 20554

Re: Ex Parte Presentation, WT Docket No. 99-87

Dear Mr. Sugrue:

Mobex Communications, Inc. ("Mobex"), a leading provider of Specialized Mobile Radio ("SMR") service in the 800 MHz band, respectfully submits this *ex parte* presentation in the Balanced Budget Act of 1997 proceeding (the "1997 BBA").

The 1997 BBA addresses the future licensing of Business and Industrial Land Transportation ("B/ILT") channels, not only whether and how the remaining "white space" should be auctioned, but whether the existing restrictions on commercial use of B/ILT channels should be eliminated.

Previously, Mobex has opposed permitting B/ILT licensees to transfer their licenses to commercial carriers.¹ Advances in digital technology and increased competition in the wireless industry have caused Mobex to reconsider its previous position on this issue. We now believe that greater licensing flexibility offers new possibilities to creatively solve today's communications needs for both private wireless users and the public. Permitting B/ILT licensees to engage in voluntary transactions with commercial carriers placing B/ILT channels in commercial or hybrid private/commercial use will best assure that private users have continued access to cost-effective communications solutions. Therefore, the Commission should allow private licensees the ability to freely assign their licenses to commercial providers.

¹ See Mobex Comments filed on November 25, 1998 in DA 98-2206 (the "Nextel B/ILT Waiver Proceeding").

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Private licensees have increased opportunities to meet their communications needs. Some licensees seek to upgrade their existing systems through conversion to advanced digital systems on a campus or local basis with access to wide-area coverage off-campus digital networks. Other incumbent private licensees, both large and small, are interested in joint ventures with commercial providers, exchanges of channels for service, swaps or *outright sales of channels to other providers, including commercial operators, for use in commercial networks*. Right now, these options are not available to private licensees. Given the increasing competitive alternatives available today for private users to obtain service from commercial or hybrid ventures, the public interest is better served by eliminating rules that restrict B/ILT licensees from choosing these options. If a B/ILT licensee seeks to solve its communications needs through transactions with a commercial provider, it should be freely allowed to do so.

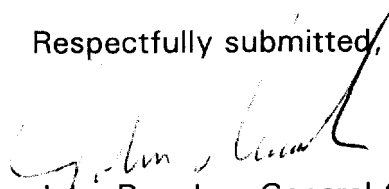
This flexibility is of particular interest to Mobex. Mobex has entered into an asset purchase agreement with Nextel and has proposed to assign its 800 MHz SMR and internal-use business channels and its 900 MHz SMR licenses to Nextel. Mobex will retain its 450 MHz (UHF) and AMTS licenses in order to provide both traditional dispatch and enhanced service offerings. Because Mobex seeks to assign all of its existing 800 MHz licenses, including its internal-use only Business channels, it seeks the type of flexibility advanced by many commenters in this proceeding.²

In short, all 800 MHz licensees need the type of flexibility discussed by participants and FCC Commissioners at the FCC's Public Forum on "Secondary Markets" so that parties can undertake voluntary transactions that make business, technical and operational sense. The Commission's

² See *Ex Parte* letter filed by American Electric Power Company ("AEP") filed on August 7, 2000.

rules, however, act as a regulatory barrier to purely voluntary transactions, which stifle creative uses of a private carrier's valuable asset – spectrum -- and therefore, the rules should be changed.³

Respectfully submitted,



John Reardon, General Counsel
Mobex Communications, Inc.

cc David Furth
Kathleen O'Brien Ham
D'wana Terry

³ We note that a review of the Commission's licensing database demonstrates that more than a decade of inter-category sharing prior to 1995 has already resulted in far more commercial use of the B/ILT channels than private use. In fact, over two-thirds of all I/LT and one-half of all Business channels are already licensed for commercial operations. In addition, there are virtually no unlicensed 800 MHz B/ILT channels in the major markets throughout the country – and thus, there is no longer B/ILT spectrum to protect from commercial use in the large markets.